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MINUTES

The Town of Manteo Board of Commissioners held their Recessed January 20, 2021 meeting at 5:00 p.m. at 407 Budleigh Street, Manteo, NC and via teleconference.

The following members were present:

- Mayor Bobby Owens (remote) (5:20)
- Mayor Pro-Tem Betty Selby (remote)
- Commissioner Darrell Collins (remote)
- Commissioner Eddie Mann (remote)
- Commissioner Richie Burke
- Commissioner Jason Borland
- Commissioner Christine Walker (remote) (5:10)

The following members were absent:

Also present at the meeting were:

- Town Manager James Ayers
- Town Attorney Ben Gallop
- IT Director Carl Woody
- Town Planner Melissa Dickerson
- Town Clerk Jamie Whitley

Mayor Pro-Tem Betty Selby called the meeting to order at 5:04 p.m. Town Manager Ayers did a roll call verifying that there was a quorum: Mayor Owens-present/remote (5:20); Mayor Pro-Tem Selby-present/remote; Commissioner Burke-present; Commission Borland-present; Commissioner Collins-present/remote; Commissioner Mann-present/remote; and Commissioner Walker-present/remote (5:10). A quorum was established.

PRESENTATIONS & REPORTS

Presentation on Quasi-Judicial Procedures

In anticipation of having some quasi-judicial hearings for matters such as conditional use permits, Town Manager James Ayers introduced David Owens. Mr. Owens is the Gladys Coates Professor of Public Law and Government for the School of Government at the University of North Carolina at Chapel Hill. Mr. Owens and Mr. Adam Lovelady wrote the Quasi-Judicial Handbook.

Mr. Owen discussed and provided the Board of Commissioners with an outline of Quasi-Judicial procedures.

Key Considerations for Quasi-Judicial Decisions

1. Distinguish Quasi-Judicial from Legislative Decisions
 - a) Not deciding policy, but applying standards that are already in the ordinance
 - b) Hearing is to gather evidence, not solicit opinions about what the policy should be or the desirability of the project

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- c) Must protect the legal rights of the applicant and affected parties
- 2. Preparing for the Hearing
 - a) Review the regulations and any material submitted by the staff
 - b) Do not gather evidence prior to the hearing on your own – no discussions with applicant, neighbors, or staff; no internet research.
 - c) May only consider evidence presented at the hearing and properly in the hearing record
 - d) May do a site visit, but no discussions there. Disclose this at the hearing
- 3. At the Hearing
 - a) Impartiality is required. Must not participate if member has a bias, a close relationship with any party, or any undisclosed outside contacts
 - b) Hear only substantial, competent, and relevant evidence
 - c) Limit opinion testimony about property value impacts and traffic safety to qualified expert witnesses
 - d) Only parties have the right to present evidence, cross-examine witnesses, and make motions; other witnesses may present non-repetitive, relevant evidence at the discretion of the council
 - e) Consult with town attorney should questions arise about proper procedures

Commissioner Burke asked about friends being involved with the hearing. Mr. Owens explained that friends are fine but if it is someone that a reasonable person could question your impartiality like a spouse, a child, a parent or an in-law, then it is up to that individual board member. If there is a question about that board members impartiality, the Board will have to vote on whether that member can participate or not.

- 4. Making a Decision
 - a) Burden is on the applicant to present evidence that all the standards are met
 - b) If that burden is met and there is no contrary evidence, approval is required
 - c) If there is conflicting evidence, council must determine the facts
 - d) Apply the standards to the facts – just checking of conclusions is insufficient
 - e) Apply any needed conditions
 - f) Provide a written decision that documents how the council resolved contested facts and applied the relevant standards

A written decision has to be submitted to the applicant in a reasonable time. If there is a challenge, this case will not be heard here again, it will go to the North Carolina Supreme Court. Make sure that it is documented what was decided and why it was decided.

Presentation of Fiscal Year 2019-2020 Audit

The Audit was presented by Greg Adams of Thompson, Price, Scott, and Adams out of Wilmington, NC. The Town met all fourteen requirements. The Auditors pointed out that there is not enough staff to segregate all the duties. In the General Fund, the total revenue for 2020 was \$4,349,680 and the total expenditure was \$4,163,206. There was a net change or increase of General Fund in the Fund Balance of \$186,474. The Local Government Commission (LGC) has determined that 8% of the General Fund expenditures is what they want you to have as your

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unassigned Fund Balance. He explained that 8% is 1/12 which is one month's worth of expenditures, which would be \$333,056. The Town has \$4,615,680 in Unassigned Fund Balance, which is 110.87%. The State average for Unassigned Fund Balance for our population size is 82.39%. The Town's tax collection rate is 98.73%. The State average tax collection rate for our population size is 98%.

The total Fund Balance increased from \$5,911,354 in 2019 to \$6,097,828 in 2020. The total Reserved Fund Balance increased from \$881,789 in 2019 to \$1,482,148 in 2020. The Cash Equivalents for the Town in 2019 was \$6,017,687 and in 2020 it was \$6,313,854.

The Water and Sewer Fund revenues were \$2,041,141 and the expenditures were \$1,817,940. There was a net increase of \$223,201. The Fund Balance at the beginning of the year was \$6 million and at the end of the year it was \$7 million. The Town is in good financial shape.

Update on Downtown Associate Community (DAC) Program

Mr. Ayers gave an update on the Downtown Associate Community (DAC) Program. This is the Town's pathway to the Main Street America Program. The focus on the DAC is economic development in the context of historic preservation. The State Kick-Off Meeting and Information Session will be January 27, 2021 at 4:00 via Zoom. The 2021 Community Sessions will be January, March, May, July, September and November. For more information on the DAC, please visit www.manteonc.gov/DAC.

Update on Recycling Program Transition

The Recycling Program is transitioning back to an individual subscription-based service for roll carts. The cost will be \$11.35 per month and Bay Disposal will send out quarterly bills for those that choose to opt-in. Bay Disposal will start picking up unused roll carts on February 5, 2021. To help with the transition, recycling containers have been placed at Town Hall until June 30, 2021. Recycling can also be dropped off at Dare County Recycling Center located at 1018 Driftwood Drive, so please visit www.darenc.com for hours of operation. Advertisements about this transition have been placed in newspaper ads, water bills, kiosks, website, town manager updates, Facebook, Twitter, Instagram, Regroup Text/Email, Sunshine List Email and Public Meetings. Businesses and commercial locations are eligible for this program. If you wish to opt-in on this recycling program, call Katie Beasley at Bay Disposal at 252-491-5105 (Ext.351) by January 31, 2021.

Update on Marshes Light Boardwalk

Mr. Ayers gave a recap of the engineering report that was presented at a previous meeting. The Boardwalk is in fair condition but the bulkhead and the breakwater are at the end of useful life and need to be replaced within the next 2-3 years. The cost to replace the boardwalk and bulkhead is just under \$500,000 and the long-term cost for future repairs and replacement would require a budget of \$35,000 per year.

Mr. Ayers presented the Conditional Use Permit (CUP) and Easement Language as well as the CAMA Permit Plan has been submitted to the State. The CUP and easement between the Town

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and Marshes Light allows for public use of the Boardwalk as a condition. The maintenance of the boardwalk is the responsibility of the homeowners and the developers.

Mr. Ayers met with the resident representative and the representative for the developer.

Developer Feedback

- The developer would convey to the Town the section of the boardwalk property that was highlighted orange on the map.
- The developer would turn the retail cottage area circled in yellow on the map into a park (conditional on being able to make up the loss of that unit on the other side of the pond), and there may be an option for another park or playground elsewhere off the Marshes Light site.
- On-going maintenance of the boardwalk would continue until the conveyance of the property to the Town.
- The developer and the Town would coordinate on connections from the property to the boardwalk as well as activities along the property frontage.

The new boardwalk will not tie into our boardwalk but they will need access to our boardwalk because it will be connected. The new boardwalk permit plan has a kayak launch that may be for public use as a condition. The plans have not been submitted to the Town yet but Planner Dickerson will find out if the kayak launch is for public use.

If the boardwalk is not repaired and falls into disrepair, there may be something in the easement that will focus them to have to repair it. There are a number of different ways to deal with it from a liability standpoint.

The Board sent Mr. Ayers to find out what Marshes Light was proposing not to have an open negotiation. Commissioner Borland stated that it is tough to go to Pirates Cove and the west side that is paying taxes and say we are taking on this \$500,000 project. He wanted to reiterate that this is not an open negotiation but a give me your best offer scenario.

Commissioner Collins asked if there has been discussion to have Marshes Light repair the boardwalk and then the Town take it over. Mr. Ayers stated that he was directed to ask what is their specific offer to the Town. There was no indication that the developer would put the boardwalk in new condition or perform repairs or replacements as deemed necessary by the engineer's assessment.

The Town has been looking at grant money and there is a FEMA issue. FEMA will give money to the Town to repair a town-owned boardwalk if it is damaged by a hurricane but it will not give money for a privately owned boardwalk. The Town did get a CAMA grant to repair the Town's boardwalk. A grant would cover some of this boardwalk but not the entire thing. We did a six-figure re-decking but for the Marshes Light boardwalk it requires more work because it is fixing everything underneath the deck.

Mayor Pro-Tem Selby wanted to know why the Homeowners Association won't bring it up to standard before the Town takes it over. We need more discussion.

Planner Dickerson looked up the CUP and it calls for a playground but not a kayak launch. We will come back and have this on a future agenda.

Update on Town Common

Mr. Ayers gave the Board the project schedule and related news. The project began October 2020. The parking milestone is February 2021 and the park area milestone is April 2021 and both are expected to be met. Mr. Ayers showed pictures of the progress and a rendering of the Town Commons.

RPC was purchased by Rose Brothers Paving and the transition is in progress and work is proceeding as appropriate.

Department Head Reports

Department Head reports are available online at www.manteonc.gov but this month's spotlight department is the Information Technology (IT) Department. The Board watched a short video on the IT Department.

PUBLIC COMMENT

Members of the public are invited to address the Board of Commissioners on any topic. Public Comment is not intended to require the Board to answer any impromptu questions or to take any action on items brought up during the public comment period. Speakers will address all the comments to the Board as a whole and not one individual Commissioner. Discussions between speakers and members of the audience will not be allowed. Time limits are 3 minutes per person or 5 minutes per group. Please identify yourself and location so that your statements can be recorded.

There were none.

OLD BUSINESS

Acceptance of \$150,000 Grant for the Town Common (Phase 2) from Dare County Tourism Board

MOTION: A motion was made by Commissioner Borland and seconded by Mayor Pro-Tem Selby to accept the \$150,000 grant from the Dare County Tourism Board for the Town Common and authorize the Town Manager to execute the grant agreement and was approved by the following roll call vote: Ayes: Mayor Pro-Tem Selby, Commissioners Collins, Borland, Burke, Mann, and Walker. Nays: None. Absent: None. **Motion carried unanimously.**

MAYOR/COMMISSIONER COMMENTS

Mayor Pro-Tem Selby: Mayor Pro-Tem Selby thanked Dare County Tourism Board for the money and suggested that we put signage at the Town Common site and the Davis Lot. People

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keep asking what is going on and having signage may help answer their questions. She congratulated IT for having everything looking good and updated. She is glad that we look forward to healing in our nation because our nation was rocked off of its core on January 6th and in her opinion, it embarrassed our whole nation. She is looking forward to the healing of the new administration and she is proud that we have the first African American, Asian American Woman Vice-President Kamala Harris. She is excited today that young girls in our country can see someone that looks like them that they can look up to and this inspires them that they can be anything that they want to be. She was embarrassed January 6th but today she is happy and excited.

Commissioner Borland: The Special Events Committee had its first meeting and they are going to start rolling and moving in the right direction.

Commissioner Mann: Commissioner Mann agreed with Mayor Pro-Tem Selby about the signage at the Town Common site and the Davis lot because he is getting questions as well. He thanked Mayor Owens for all he has done to help get Manteo money from the Tourism Board.

Mayor Owens thanked Commissioner Mann but stated that this was a Town team effort and everyone helped to with this project. He stated that he could not have done this without the Board.

Commissioner Collins: Commissioner Collins asked Mr. Ayers if there was an update on the Shallowbag Bay Pump Station.

Mr. Ayers stated that we have been in contact with the engineer and we believe at the next workshop meeting, we can bring to you the draft plans.

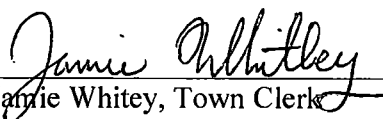
Commissioner Collins thanked Mr. Ayers for everything he has done for this project.

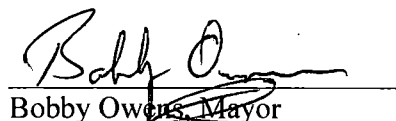
Commissioner Walker: Commissioner Walker was concerned about the condition of Devon Street. She asked that whatever can be done to help with the road because they do utility cuts in that road and it is bumpy. She thanked him for the update on the Town Common. She stated that whatever we can do to maintain the roads in town that are not where they need to be, maybe we can show them a little extra love this time of year.

There being no further business to come before the Board or other persons to be heard a motion was made by Commissioner Collins and seconded by Commissioner Walker and the meeting was adjourned at 6:38 p.m. was approved by the following roll call vote: Ayes: Mayor Pro-Tem Selby, Commissioners Mann, Borland, Burke, Collins, and Walker. Nays: None. Absent: None. **Motion carried unanimously.**

This the 20th day of January 2021.

ATTEST:


Jamie Whitey, Town Clerk


Bobby Owens, Mayor

